

Brief Synopsis of NJDEP's Brownfields Development Area Initiative

The New Jersey Department of Environmental Protection (NJDEP) is pleased to announce the launch of the Brownfields Development Area (BDA) Initiative. Under this innovative approach, NJDEP will work with selected communities impacted by multiple brownfields to design and implement remediation and reuse plans for these properties simultaneously, so that remediation and reuse can occur in a coordinated fashion. All stakeholders, including owners of contaminated properties, potentially responsible parties, developers, community groups, technical experts for the local government and residents, and residents themselves, will be invited to the table to participate in this cleanup and revitalization approach.

Several jurisdictions have recognized the need for this type of approach in urban areas and, in particular, for properties that because of location, contamination levels, or size have not yet attracted adequate private funding for remediation or private development attention. The BDA Initiative provides a framework and resources to empower affected neighborhoods to address these difficult brownfields where additional assistance may be needed from all stakeholders, including developers, property owners and parties potentially responsible for the cleanup. It is important to note that the purpose of the BDA Initiative is to help reuse of these properties. Participation in the BDA Initiative will not affect or limit in any way utilization or application of New Jersey's other brownfield or remediation programs on properties within a BDA. In addition, the BDA Initiative does not create or impose any additional regulatory or approval requirements on properties within the BDA.

In the BDA Initiative, NJDEP will work closely with other involved agencies and offices, including the Economic Development Authority (EDA) and the Office of Smart Growth (OSG), to remediate and revitalize *communities and neighborhoods*, not just individual properties.

The BDA Initiative will be implemented as follows:

Application for Participation in the BDA Initiative

The strength of the BDA Initiative is its reliance on a resource that is largely untapped for purposes of brownfields reuse: the communities and neighborhoods directly affected by the brownfield sites. The BDA Initiative provides communities with a decisionmaking framework, targeted resources and coordinated agency assistance to enable them to fulfill their visions for the brownfields that affect them. It also can serve as a forum to involve property owners, developers and parties potentially responsible for cleanup costs as participants in proactive reuse of underutilized properties.

Application for participation in the BDA Initiative must be made by a Steering Committee, representing the affected community and with the demonstrated commitment and leadership capacity to bring the BDA project through to completion. Community groups and municipalities with a history of planning are encouraged to apply, however, although previous planning experience is not essential for consideration. Also, while not required, steering committees and/or municipalities are encouraged to hire their own technical and/or planning experts.

Applications will include a description and explanation of the BDA, a discussion of the proposed BDA boundaries, current activities and uses within the BDA, and a clear identification of the brownfields within the BDA that the Steering Committee intends to address. The application must also provide evidence of support from local community members and community or civic organizations. In addition, documentation evidencing support from the local governing body will be required. It is strongly encouraged that the owners of any brownfields being proposed for inclusion within the BDA, operators on those properties, other parties potentially responsible for cleanup costs, and the environmental commission or prominent local environmental groups be contacted and offered an opportunity to participate, as members of the Steering Committee or otherwise.

The applications will also require a discussion of overall community aspirations for brownfields reuse within the BDA. Although formal plans will not be required at this stage, experience with planning on the part of the Steering Committee will be useful. In addition to brownfield properties, consideration of the uses of non-brownfield properties, other area features and infrastructure will be taken into account.

NJDEP will carefully select a limited number of BDA Initiative projects annually, based on the level of community support and participation demonstrated in the applications, and on the scope of environmental and redevelopment benefits potentially deriving from the project. Successful applications will result in the formal designation of the applicant's proposed BDA by NJDEP, and in the benefits described below. Applicants that are not selected will be advised on areas in need of further development and be encouraged to present more fully developed applications for consideration in future rounds.

Initial Meeting, Appointment of BDA Project Manager and Signing of MOU

The NJDEP Office of Brownfield Reuse and a team of representatives from other state agencies will hold an Initial Meeting with the Steering Committee of each successful applicant and municipal representatives as soon as possible after selection. At this meeting, the Steering Committee will present an overview of their goals for the Initiative. Staff from the Office of Brownfield Reuse will provide a detailed discussion of the role NJDEP will play and the support to be offered throughout the process.

The Office will identify the BDA Project Manager who will have responsibility for all brownfield sites within the BDA. In the past, contaminated properties in the same vicinity were assigned to different NJDEP case managers, often from different programs. A principal benefit of the BDA Initiative is that one Project Manager will have responsibility for all brownfield properties within the BDA, irrespective of the individual characteristics the brownfields sites. Moreover, to maximize the efficiency of reuse of brownfields within the BDA, this case manager will remain with the project even after remediation has been performed, to facilitate coordination with other involved NJDEP program areas for permitting, cost recovery, land use approvals, etc. During the Initial Meeting, the Project Manager will summarize available NJDEP records associated with the brownfield sites targeted by the BDA application and will recommend options on how a Preliminary Assessment (PA) and/or Site Investigation (SI) can be conducted on each of these sites. These documents are useful for inviting current and former landowners and operators, as well as other private entities potentially responsible for cleanup costs to the brainstorming table as additional process resources. Other involved agencies and NJDEP programs, including the Office of Permit Coordination, will also present a brief overview of their programs as they apply to the BDAs.

The final aspect of the Initial Meeting will involve the execution of a Memorandum of Understanding (MOU) that will govern the partnership formed by the Steering Committee, the Municipality and the NJDEP. The MOU will set forth the steps of the BDA Initiative process, and the commitments of all parties. This MOU will be of one-year duration; renewable based on a showing of adequate progress. This annual renewal requirement will impose a responsibility on both the NJDEP and the Steering Committee to ensure such progress.

BDA Planning Step 1: Obtaining Baseline Environmental and Ownership Information on Brownfields Within the BDA

The overall objective of the BDA Initiative is to assist the Steering Committee in developing and implementing comprehensive plans for the coordinated remediation and redevelopment of the brownfield sites within the BDA. The planning process must begin with collection of necessary baseline environmental information, including known or suspected contamination, permitted and current land uses, any land use plans within the BDA and a characterization of properties adjacent to the BDA. This type of information is contained in a PA, and, if necessary, an SI. Following the Initial Meeting, a PA and/or SI will be conducted on every brownfield within the BDA. Depending on the circumstances, PA/SIs may be conducted by NJDEP staff, the parties responsible for contamination on the brownfield sites, or by private consultants hired through grants provided by NJDEP or other sources.

BDA Planning Step 2: Preliminary Planning Meeting

Following a review of the PAs and the baseline information, NJDEP staff, state planning experts and the Steering Committee will hold a Preliminary Planning Meeting to generate ideas for remediation and reuse of the brownfields within the BDA. This session will be a preliminary step to developing a full plan and will focus on reuse alternatives informed by the environmental information contained in the PA/SIs level of cleanup required for each of the sites. The Preliminary Planning Meeting will also include a description of the regulatory process associated with various redevelopment options for these sites.

BDA Planning Step 3: Baseline Resources Identification Meeting to Identify Resources Potentially Available for Remediation and Reuse of Brownfields within the BDA

Following the Preliminary Planning Meeting, NJDEP, the Steering Committee and other involved agencies will hold a Baseline Resources Identification Meeting to identify resources available to complete the necessary investigation, remediation and reuse of brownfields within the BDA. These investigation, remedy and reuse resources will be site-specific and may include, for example, potentially responsible parties (including present and former owners) identified through the PA/SI process, or entities with expressed or potential development interest in specific parcels. If property owners, operators and other parties potentially responsible for cleanup or costs have been active participants in the process to this point, the Committee may be well on its way to completing the remediation. Where potentially responsible parties have been identified, NJDEP will agree to exercise its enforcement authorities if necessary to ensure that responsible parties not impede remediation and reuse of the BDA. Additional resources may include federal, state, county or private grants and loans.

During the Baseline Resources Identification Meeting, charts will be prepared for each brownfield property specifying the resources actually or potentially available for remediation and/or reuse of that property. These charts will be expanded over time as additional resources are identified.

BDA Planning Step 4: Creation of BDA Remediation and Reuse Plan

Following the Baseline Resources Identification Meeting, the Steering Committee will develop a BDA Remediation and Reuse Plan. This Plan will reflect substantial private party and public input on a comprehensive vision for the BDA, including both brownfield and non-brownfield properties. It may rely on pre-existing planning efforts, as long as it is demonstrated that the overall BDA Remediation and Reuse Plan reflects community participation. The NJDEP Project Manager will work with the Steering Committee and any retained planner to develop a comprehensive investigation and remediation schedule that best accommodates the planned reuse, and that maximizes efficiency of remediating all identified brownfields comprehensively and with reuse plans in mind. In appropriate circumstances, NJDEP will apply innovative approaches in BDAs that suffer from pervasive groundwater contamination.

BDA Planning Step 5: Creating a Path to Success: Strategic Plan Meeting and Subsequent Meetings

After completion of the BDA Remediation and Reuse Plan, NJDEP and other involved agencies will meet with the Steering Committee and its technical and/or planning advisors for a Strategic Plan Meeting to establish a “critical path” to implement the Plan. The critical path will establish site-specific timelines for remediation and marshal identified resources for implementation of the Remediation and Reuse Plan. Again, the Committee that has active participation from property owners, operators and other parties potentially responsible for cleanups or costs may be well along this path by this stage.

The Strategic Plan Meeting should include any state departments and agencies necessary to advance the Remediation and Reuse Plan. These would include, as appropriate, members of NJDEP’s One Stop Permitting Program, who will identify key milestones for permitting activities associated with the reuse of each site. Staff from other relevant NJDEP areas, such as the Green Acres Program, the Land Use Program, and others will be part of the Strategic Plan Meeting.

Thereafter, on an ongoing basis, both the BDA Project Manager and staff from other key NJDEP programs will assist the Steering Committee in procuring and applying the identified resources and coordinating with other involved agencies to fully implement the BDA Remediation and Reuse Plan. Each year the progress of the BDA will be evaluated, and the MOU among NJDEP, the Steering Committee and the Municipality will be renewed only upon a showing of adequate progress. As indicated above, a unique aspect of the BDA Initiative is that the NJDEP Project Manager will remain with the project even after remediation is complete, to assist in coordinating other regulatory approvals necessary for implementing the planned reuse.